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\*\*e-filed 5/9/06

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

MICROSOFT CORPORATION, a Washington  
corporation,

Plaintiff,

v.

SUNCREST ENTERPRISE, a California  
corporation; and YI-LING CHEN, an individual  
a/k/a EILEEN CHEN,

Defendants.

CASE NO. 03-CV-5424-JF/HRL

STIPULATION TO CONTINUE  
PRETRIAL CONFERENCE AND TRIAL;  
[PROPOSED] ORDER

SUNCREST ENTERPRISE, INC., a California  
corporation,

Third Party Claimant,

v.

M-PLUS INTERNATIONAL TECHNOLOGY,  
INC., a California corporation; SIMON PL YU,  
an individual; and AILEEN Y. JIN, an  
individual,

Cross-Defendants.

///

The parties, by and through their attorneys of record, request that the Court accept the  
parties' Stipulation to Continue the Pretrial Conference and Trial. The Pretrial Conference is

STIPULATION TO CONTINUE PRETRIAL CONFERENCE AND TRIAL  
CASE NO. 03-CV-5424-JF/HRL

1 currently set for May 12, 2006 and Trial is set for May 26, 2006, and the parties request that these  
2 dates be continued approximately sixty days.

3 Pursuant to the Court's March 31, 2006 Civil Minutes regarding the hearing on Plaintiff  
4 Microsoft Corporation's ("Microsoft") and Defendants Suncrest Enterprise and Yi-Ling Chen a/k/a  
5 Eileen Chen's (collectively, "Defendants") respective motions for summary judgment, the Court  
6 deferred its ruling on the motions for thirty days pending participation in a settlement conference  
7 before Magistrate Judge Howard R. Lloyd.<sup>1</sup> The Court also indicated that the parties were to file  
8 their Pretrial Conference Statement within seven days after the Court ruled on the parties' motions  
9 for summary judgment.

10 The Court has yet to rule on the parties' respective motions for summary judgment.  
11 Without the Court's ruling on the parties' motions, the Pretrial Conference will take place before  
12 the parties have prepared and filed their Pretrial Conference Statement. Depending on the Court's  
13 ruling on the parties' motions for summary judgment, the factual and legal issues to be set forth in  
14 the Joint Pretrial Conference Statement could change significantly. Alternatively, resolution of the  
15 parties' motions for summary judgment could altogether eliminate the need for preparing a filing a  
16 Joint Pretrial Conference Statement.

17 Moreover, counsel for Defendants has a conflict with the May 26, 2006 Trial date as he is  
18 scheduled to be in trial in another matter.

19 The parties therefore request a continuance of the Pretrial Conference until July 14, 2006  
20 and Trial until July 28, 2006. Continuing the Pretrial Conference and Trial dates will  
21 accommodate defense counsel's scheduling conflict and will allow the Court time to rule on the  
22 parties' respective motions for summary judgment before the parties prepare their Joint Pretrial  
23 Conference Statement. Continuing the Pretrial Conference date will not only allow the parties to  
24 prepare their Joint Pretrial Conference Statement with respect to the factual and/or legal issues  
25 remaining after the summary judgment motions, but will also conserve the Court's time and  
26

27 <sup>1</sup> The parties participated in the settlement conference before Magistrate Judge Lloyd, however,  
28 were unable to reach a settlement.

resources that would be expended reviewing a potentially superfluous Joint Pretrial Conference Statement.

The parties therefore request the Court continue the Pretrial Conference from May 12, 2006 to July 14, 2006 and the Trial from May 26, 2006 to July 28, 2006.

**IT IS SO STIPULATED:**

DATED: May \_\_, 2006

PERKINS COIE LLP

By: \_\_\_\_\_  
Katherine M. Dugdale  
Attorneys for Plaintiff  
MICROSOFT CORPORATION

DATED: May \_\_, 2006

GORMAN & MILLER, P.C.

By: \_\_\_\_\_  
John C. Gorman  
Attorneys for Defendants  
SUNCREST ENTERPRISE and YI-LING  
CHEN a/k/a EILEEN CHEN

DATED: May 5, 2006

SHAWN T. LEUTHOLD

By: \_\_\_\_\_  
Shawn T. Leuthold  
Attorneys for Cross-Defendants  
M-PLUS INTERNATIONAL  
TECHNOLOGY, INC., SIMON PL YU, and  
AILEEN Y. JIN

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: May 9, 2006

  
HON. JEREMY FOGEL  
United States District Judge

1 resources that would be expended reviewing a potentially superfluous Joint Pretrial Conference  
2 Statement.

3 The parties therefore request the Court continue the Pretrial Conference from May 12,  
4 2006 to July 14, 2006 and the Trial from May 26, 2006 to July 28, 2006.

5 **IT IS SO STIPULATED:**

6 DATED: May 8, 2006

PERKINS COIE LLP

7  
8 By: /s/  
Katherine M. Dugdale  
9 Attorneys for Plaintiff  
MICROSOFT CORPORATION

10  
11 DATED: May 8, 2006

GORMAN & MILLER, P.C.

12 By: /s/\*  
13 John C. Gorman  
14 Attorneys for Defendants  
SUNCREST ENTERPRISE and YI-LING  
15 CHEN a/k/a EILEEN CHEN  
\*per authorization

16  
17 DATED: May \_\_, 2006

SHAWN T. LEUTHOLD

18 By: \_\_\_\_\_  
19 Shawn T. Leuthold  
20 Attorneys for Cross-Defendants  
M-PLUS INTERNATIONAL  
21 TECHNOLOGY, INC., SIMON PL YU, and  
AILEEN Y. JIN

22  
23 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

24 Dated: May \_\_, 2006

25 HON. JEREMY FOGEL  
26 United States District Judge

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am and was at all times herein mentioned employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action or proceeding. My business address is 1620 26<sup>th</sup> Street, Sixth Floor, Santa Monica, California 90404.

On May 8, 2006, I served a true copy of **STIPULATION TO CONTINUE PRETRIAL CONFERENCE AND TRIAL; [PROPOSED] ORDER** on the interested parties in this action by placing said document enclosed in a sealed envelope (for collection and mailing, with postage thereon fully prepaid, on the same date, following ordinary business practices) in an internal collection basket, addressed as follows:

**John C. Gorman**  
**Craig Alan Hansen**  
**GORMAN & MILLER, P.C.**  
**210 North Fourth Street, Suite 200**  
**San Jose, CA 95112**  
**Telephone: (408) 297-2222**  
**Facsimile: (408) 297-2224**

**Attorneys for Defendant/Cross-Claimant SUNCREST ENTERPRISE, INC. and Defendant YI-LING CHEN**

**Shawn T. Leuthold**  
**Law Office of Shawn T. Leuthold**  
**1671 The Alameda, Suite 303**  
**San Jose, CA 95126**  
**Telephone: (408) 924-0132**  
**Facsimile: (408) 924-0134**

**Attorneys for Cross-Defendants SIMON P. YU, AILEEN Y. JIN and M-PLUS INTERNATIONAL TECHNOLOGY (dba Microplus International Technology)**

☒ **BY MAIL)** I am readily familiar with this business's practices concerning collection and processing of correspondence for mailing with the United States Postal Service, and declare that correspondence is deposited with the United States Postal Service on the same day it is internally collected at Perkins Coie LLP in the ordinary course of business.

☐ **(BY HAND DELIVERY)** I caused each envelope to be delivered by hand to the offices listed above..

☐ **(BY OVERNIGHT)** I caused each envelope, with postage fully prepaid, to be sent by DHL Express.

☐ **(BY E-MAIL)** I served a true copy of on the interested parties in this action by email, addressed as follows:

1    ☐    **(BY FACSIMILE/TELECOPY)** I caused each document *as a courtesy copy* to be  
2                    sent by Automatic Facsimile/Telecopier to the number(s) indicated above.

3    ☐    **(STATE)** I declare under penalty of perjury under the laws of the State of  
4                    California that the above is true and correct.

5    ☒ **(FEDERAL)** I declare that I am employed in the office of a member of the bar of  
6                    this court at whose direction the service was made.

7                    Executed on May 8, 2006, at Santa Monica, California.

8                    \_\_\_\_\_  
9                    /s/ **SANAYE KUMAGAI**